

**INTHEUNITEDSTATESDISTRICTCOURT
FORTHEEASTERNDISTRICTOFPENNSYLVANIA**

UNITEDSTATESOFAMERICA v. ALBERTOHERNANDEZ, a/k/aALBERTOLOPEZ, Defendant.	CRIMINALACTION No.99-362-1
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MEMORANDUMANDORDER

Katz,S.J.

March20,2002

ThisMotionraisestheissueofdefensecounsel'sineffectivenessforfailingto raisetheconstitutionalityofthestatuteforbiddingthepossessionofafirearmbyaconvicted felon.18U.S.C.§922(g).

Followingahearingondefendant'sMotiontoSuppress,thiscourtdeniedthe MotionandtheCourtofAppealsaffirmedfollowingdefendant'sguiltypleaandsentence.The weaponinquestionwasmanufacturedoutsideofPennsylvania.

Theconstitutionalchallengehasbeenrejected.Thestatuteisaconstitutional exerciseofCongress'authorityundertheCommerceClause. *UnitedStatesv.Gateward* ,84F.3d 670(3dCir.1996), *cert.denied* ,519U.S.907(1996); *UnitedStatesv.Singletary* ,268F.3d196 (3dCir.2001).

AnappropriateOrderfollows.

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ORDER

ANDNOW ,this20th dayofMarch,2002,uponconsiderationofdefendant's
MotionUnder28U.S.C.§2255andtheresponse,itishereby **ORDERED**thatthesaidMotion
is **DENIED**.

Thereisnobasistoissueacertificateofappealability.

BYTHECOURT:

MARVINKATZ,S.J.